

Appln. No. 10/615,035
Amendment filed January 18, 2005

REMARKS

The claims have been amended to correct minor editorial problems and to improve clarity.

Applicant acknowledges receipt of the Office Action from Examiner Woo mailed on July 16, 2004. Claim 1-10 stand rejected under 35 U.S.C. § 103(a).

Claims 1-11 stand rejected under 35 U.S.C. § 103(a) in view of Shapiro et al. (U.S. Pat. 4,760,593) and Sands (U.S. Pat. 5,862,201) and the former references in combination with Otero (U.S. 2003/0169852), Betcher (U.S. 6,163,249) and Chen (U.S. Pat. 6,060,994).

Claim 1,2 and 5 stand rejected under § 103(a) over the Shapiro disclosure of: the base, a POTS handset and keypad and POTS telephone circuitry for 2-way communication. Shapiro is combined in view of Sands who teaches a backup communicator, a control panel for switching between telephone line and cellular backup communicator. The motivation to combine these prior art references was "to incorporate a cellular backup communicator and control for switching, as taught by Sands, within the alarm system of Shapiro so that an alarm call can still be placed in the event the telephone line is inaccessible."

Applicant respectfully disagrees. Even assuming, arguendo, that a prima facie case of obviousness has been established for claim 1-10, a position not accepted by Applicant, a prima facie case of obviousness may be rebutted by showing that the art, in any material respect, teaches away from the claimed invention. *In re Geisler*, 116 F.3d 1465, 1471, 43 USPQ2d 1362, 1366 (Fed. Cir. 1997) See MPEP § 2144.05.

Appln. No. 10/615,035
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The claims explicitly recite "control electronics connected to said base unit for selectively switching between said POTS service and said wireless telephone service." Thus, the claims are not drawn to the use of a mobile service when the plain old telephone service (POTS) is "inaccessible." Rather, it is when the user chooses not to use POTS or cannot use the POTS that the mobile service is used.

Moreover, Sands does not teach the use of a cellular backup when the telephone line is "inaccessible" as is stated in the rejection. Rather, Sands teaches the use of a backup when the telephone line is disabled. See Sands Paragraph bridging col. 1 and col. 2 (A backup communicator, preferable a cellular transceiver, is provided for calling the monitoring station if a fault is detected on the telephone line); the "diamond "108" in Fig. 2; Col. 4. lines 31-35 (As noted above, if the primary station 14 is not accessible at step 108, the IXC network routs the call to the secondary station at step 116).

This teaches away from the explicitly claimed element "control electronics connected to said base unit for selectively switching between said POTS service and said wireless telephone service." The claims recite a *functioning* POTS service for "selectively switching" between POTS and the wireless service, not a *disabled* POTS. As stated above, the claimed invention is drawn to an emergency system in which the emergency is that the user is suddenly unable to use POTS. The emergency is not that POTS suddenly became disabled.

Since the combination of the prior art suggests a disabled POTS rather than a functioning POTS, there is in fact a prior art teaching away from the invention. Accordingly, the prior art motivation to switch from POTS to a wireless service when the POTS is disabled is a factor what weights in favor of patentability, not obviousness.

Appn. No. 10/615,035
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The Otero invention does not supply the missing motivation. Otero suggests replacing the POTS with the Otero device, not switching between POTS and a wireless device. See Otero page 2 paragraphs 12 and 37 (a simplified emergency forwarding speakerphone . . . If . . . a person is physically incapacitated and cannot reach the phone.).

The Betcher references teaches the use of "tilt" detection in a wheelchair, not the base of a telephone device. There is no teaching or suggestion, absent hindsight reasoning to start with a prior art wheelchair "tilt" detector and end up with a telephone "base" tilt detector.

Finally, the rejection sites Chen as teaching a "dead line" detection at col. 5, line 13. The Chen disclosure, however, requires a "remote administrant" to monitor the Chen system and translate "server response codes." See Chen col. 5, lines 11-12. In contrast, the claimed invention generates a telephone call to the emergency service. There are many more emergency service providers that are equipped to receive phone calls as compared with those equipped to monitor "server response codes." Any hospital, ambulance company or firehouse can accept emergency phone calls. However, only relatively few high tech providers can monitor "server response codes." Thus, applicant's system is more practical than that suggested by the prior art. This unexpected advantage over the prior art is still another indication of unobviousness.

Appln. No. 10/615,035
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If the Examiner believes a telephone interview would be either necessary or desirable, kindly call the undersigned at the number indicated. If additional fees are required, the Commissioner is hereby authorized to charge any additional fees to deposit account number 11-0853.

Respectfully submitted,



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